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E.O. 12958: DECL: 09/26/2016
TAGS: [EFIN](#) [KCOR](#) [PGOV](#) [EINV](#) [GB](#)
SUBJECT: POLITICAL INSIDER WINS JUDGMENT AGAINST CITIBANK

REF: A. YAOUNDE 1331

[1](#)B. LIBREVILLE 337

Classified By: DCM Katherine Dhanani. Reason: 1.4 (d).

[1](#)1. (C) Summary: One of President Bongo's closest advisors won an appeals court judgment of \$5.4 million against Citibank. Citibank reports that the manner in which the decision was made shows that political influence can trump the rule of law in the Gabonese court system. Coming hard on the heels of difficulties American and Canadian investors have experienced with Air Service (reftels), this case confirms that outsiders need to be careful when negotiating Gabon's business climate.
End summary.

[1](#)2. (C) On September 20 the Gabonese court of appeals issued a judgment in a Citibank appeal of a lower court ruling. The case, which is a complicated one, dates back to 1999, when Citibank managed the private account of former Finance Minister Jean Pierre Lempoumba Lepandou. Lempoumba parted ways with President Bongo in the early 1990s, and ran for president as an opposition candidate in 1993. Lempoumba sued Citibank for allowing his wife to use her position as a Citibank employee to withdraw funds from his personal account. Lempoumba initially used his influence to secure his wife a position at Citibank. When Lempoumba fell out with Bongo and left for exile in France, his wife gradually withdrew the majority of funds from his account--either entirely without his approval, as Lempoumba claims, or at least some of the time without his approval, as Citibank believes. Either way, his wife sometimes forged his name on documents in order to make the transactions.

[1](#)3. (SBU) The court case languished for several years, until Lempoumba came back from exile and became one of President Bongo's closest advisors at the presidency in 2005. In August 2005, the lower court issued a judgment awarding Lempoumba about \$5.2 million in principal, interest and damages. Citibank appealed, arguing the decision was invalid because the three judges who signed the decision (which was issued at a time when most of the judiciary was on vacation) were not the judges who had heard evidence. Gabonese law clearly states that only the judges who have heard arguments can issue a ruling. The appeals court agreed with Citibank concerning the law, and nullified the lower court ruling.

[1](#)4. (SBU) Normally, the nullification of a ruling would require a return to the lower court. Anticipating this, Citibank planned to use a favorable ruling in the appeals court to enter into settlement negotiations. However, even though the only issue formally before the appeals court was the validity of the lower court ruling, the appeals court took it upon itself to go further. The appeals court decided

to issue a judgment itself, instead of sending the matter back to the lower court. The decision the court issued was essentially identical to the lower court judgment, awarding about \$5.2 million to Lempoumba

¶5. (C) According to Ade Adjayi, Citibank's French and Gabonese attorneys tell Citibank that the appeals court has the authority to issue a ruling (and there is precedent), but normally would only do so under exceptional circumstances. The Gabonese attorney, however, strongly recommends against an appeal, since he believes it is clear that in the current political climate no different result can be anticipated. Under Gabonese law, even if Citibank appeals, the judgment must be paid now. If an appeal were successful, Lempoumba would be required to return the money. If an appeal failed, Lempoumba would be entitled to additional interest and costs. Ade Adjayi reports that Citibank New York has decided to cut its losses and drop the matter. She reports that Citibank executives were surprised by the Gabonese judiciary's vulnerability to political influence (as they considered Gabon an honest place to do business).

¶6. (C) The Ambassador will continue to raise the Citibank case with President Bongo and other high government officials, emphasizing the effect it may have on limiting the attraction of American investment to Gabon.

¶7. (C) Comment: Citibank is only the most recent North American company to learn that it is not easy to protect one's interests when they are opposed by Gabonese regime insiders. From 2004 to 2005 Gabon's score on the Transparency International Index dropped from 3.3 to 2.9. We will not be surprised if Gabon slides further in 2006. Some players in Gabon appear to believe now is a good time to rake in the chips before the dealer (President Bongo) leaves the table.
WALKLEY